



Legal Authorities/Powers and Duties

Module XII

What you will learn in this module

- Conservation district authorities and duties as outlined in Conservation District Law.
- State Conservation Commission and Division of Conservation authorities and duties as outlined in Conservation District Law relevant to conservation districts.
- Conservation district liability.

Legal Responsibility

- Kansas conservation districts are political subdivisions of state government. District supervisors are *public* officials and district employees are *public* employees. In order to maintain the public trust, and be eligible for public funds, conservation districts must comply with applicable Kansas Statutes.

Conservation District Law

- K.S.A. 2-1901 through 2-1920
- Empowering statutes for conservation districts, the State Conservation Commission and the Division of Conservation, KDA.
- The State Conservation Commission was established by Conservation District Law in 1937.
- Conservation districts were formed under the authorization of the Conservation District Law passed by the Kansas Legislature in 1937.

Conservation District Law (cont.)

- The Legislature, in passing this Act, designated conservation districts as the primary local unit of government responsible for the conservation of the renewable natural resources in the state.
- The first Kansas district was formed in Labette County in 1938.
- Shawnee County was the last district formed in Kansas in 1954.

District Definition

K.S.A. 2-1903. Definitions. As used in this act:

"District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for The purposes, with the powers, and subject to the restrictions hereinafter set forth.

Conservation District Powers

K.S.A. 2-1908.

- (a) To conduct surveys, investigations, and Research.....
- (b) to conduct demonstrational projects within the district on lands, owned or controlled by this state or any of its agencies.....
- (c) to carry out preventive and control measures within the district.....

Conservation District Powers (cont.)

(d) to cooperate, or enter into agreements.....

(e) to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein.....

(f) to make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment.....

Conservation District Powers (cont.)

- (g) to develop comprehensive plans for the conservation of soil and water resources and for the control and prevention of soil erosion, flood damages, impaired drainage, the effects of drouth within the district and the maintenance and improvement of water quality.....
- (h) to take over, by purchase, lease, or otherwise, and to administer, any soil conservation, erosion-control, or erosion prevention, flood prevention or water management project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies.....

Conservation District Powers (cont.)

- (i) to sue and be sued in the name of the district.....
- (j) the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits
- (k) no provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state;

Conservation District Powers (cont.)

- (l) the supervisors of any district shall not contract debts or obligations in the name of the district beyond the current appropriation made available to the district by the committee or federal grants or other financial sources;
- (m) to accept and expend funds donated to the district for purposes of providing at least 20% cost-share for the purchase of an eligible water right from the holder of the water right

Conservation District Powers (cont.)

K.S.A. 2-1913.

The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this Act.

K.S.A. 2-1915.

Any district is authorized to make use of any assistance whatsoever given by the United States, or any agency thereof, or derived from any other source, for the planning and installation of such practices.

Conservation District Powers (cont.)

K.S.A. 2-1920.

- (b) Any moneys in the capital outlay fund of the conservation district may be used for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for district operations, including architectural expenses incidental thereto and the acquisition of building sites and the acquisition of other equipment to carry out the activities and functions of the district.
- (c) The conservation district board of supervisors is hereby authorized to invest any portion of the capital outlay fund, which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto. All interest received on any such investment shall be credited to the capital outlay fund.

SCC/DOC Authorities

K.S.A. 2-1904.

(a) There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this act, the state conservation commission.

SCC/DOC Authorities

K.S.A. 2-1904.

(b) The commission shall keep a record of its official actions, shall adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings and adopt rules and regulations necessary for the execution of its functions under this act.

SCC/DOC Authorities/Duties

K.S.A. 2-1904.

In addition to the duties and powers hereinafter conferred upon the state conservation commission, it shall have the following duties and powers:

- To offer such assistance as may be appropriate to the supervisors of conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;
- to keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized.....;

SCC/DOC Authorities/Duties (cont.)

- to coordinate the programs of the several conservation districts organized hereunder.....;
- to secure the cooperation and assistance of the United States and any of its agencies and of agencies of this state.....;
- to disseminate information throughout the state concerning the activities and programs of the conservation districts.....;

SCC/DOC Authorities/Duties (cont.)

(6) to cooperate with and give assistance to watershed districts and other special purpose districts in the state of Kansas

(7) to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state

SCC/DOC Authorities/Duties (cont.)

- to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts
- to facilitate arrangements under which conservation districts may serve county governing bodies and other agencies

SCC/DOC Authorities/Duties (cont.)

2-1907.

Any supervisor may be removed by the state conservation commission upon notice and hearing in accordance with the provisions of the Kansas administrative procedure act, for neglect of duty or malfeasance in office, but for no other reason.

SCC/DOC Authorities/Duties (cont.)

- The SCC shall:

For the purpose of providing state financial assistance to conservation districts, the state conservation commission in the regular budget request shall.....submit a special request for an amount equal to the sum of the allocations of each county conservation district, but in no event to exceed the sum of \$25,000 per district.

Legal Assistance

- A conservation district has access to the State Attorney General's Office, as well as their local county attorney.
- If a legal issue or a potential legal issue arises, contact the SCC staff first for possible sources of assistance or resources that the district might not be aware.

Liabilities

- The Kansas Tort Claims Act, K.S.A. 75-6101 et seq., covers district supervisors and employees if acting within the scope of their duties. The Attorney General of Kansas determines if fraud or malice is evident. A basic goal of the Tort Claims Act is to protect the supervisors from being personally sued for their actions or omissions. Coverage under the Tort Claims Act means that district officials and employees have liability coverage for damages to others or property while acting within the scope of their duties or employment.

Liabilities (cont.)

- In the event of a claim the State Attorney General will represent the district and the State will pay all legal expenses. Claims made against a conservation district cannot exceed \$500,000 and are paid by the State of Kansas.
- The best way to avoid legal liability is to conscientiously perform the job of supervisor; understand the role and responsibilities, keep accurate minutes, go to board meetings, keep well informed of what the district is doing and stay free of any potential conflicts of interest.

Review Question

1. Conservation District Law is the empowering statute that gives conservation districts all their powers and authorities.

True or False?

Review Answer

1. Conservation District Law is the empowering statute that gives conservation districts all their powers and authorities.

True

Review Question

2. Who should the conservation district contact first if a potential legal issue arises?

Review Answer

2. Who should the conservation district contact first if a potential legal issue arises?

The SCC Staff.

Review Question

3. Under Conservation District Law the SCC is required to disseminate information throughout the state concerning the activities and programs of the conservation districts.

True or False?

Review Answer

3. Under Conservation District Law the SCC is required to disseminate information throughout the state concerning the activities and programs of the conservation districts?

True

Review Question

4. Conservation districts are a subdivision of the State.

True or False?

Review Answer

4. Conservation districts are a subdivision of the State.

True

Review Question

5. What is the best way supervisors can avoid potential personal liability claims?

Review Answer

5. What is the best way supervisors can avoid potential personal liability claims?

*Conscientiously perform their
job as supervisor.*

Summary

The authors of the Conservation District Law understood that broad authorities would be needed to deal with changing environmental and conservation needs. The Law provides conservation districts with discretionary powers that allow them to be innovative in carrying out a wide-range of activities and actions to meet conservation needs.

Resources Available

- **Resources**
- SCC Staff
- “Conservation District Handbook”
- 785.296.3600
- www.ksda.gov/doc